

**Introduced by Senator Hill**December 1, 2014

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An act to amend Sections 22950.5, 22951, 22952, 22956, 22958, 22960, 22961, 22962, 22963, 22970.2, 22971, 22972, 22973, 22974, 22974.7, 22980, 22980.1, 22980.2, 22980.3, and 22980.4 of, and to add Section 22950.1 to, the Business and Professions Code, to add Section 119406 to the Health and Safety Code, and to amend Section 308 of the Penal Code, relating to electronic cigarettes.

## LEGISLATIVE COUNSEL'S DIGEST

SB 24, as introduced, Hill. STAKE Act: electronic cigarettes.

Existing law, the Stop Tobacco Access to Kids Enforcement Act (STAKE Act), establishes various requirements for distributors and retailers relating to tobacco sales to minors. Existing law makes it a crime, punishable by a fine not to exceed \$500 or by imprisonment not exceeding 30 days in a county jail, to fail to post a notice, at each point of purchase, stating that the sale of tobacco products to minors is illegal. Existing law also permits enforcing agencies to assess various civil penalties for violations of the STAKE Act.

Existing law prohibits a person from selling or otherwise furnishing an electronic cigarette to minors, and makes a violation punishable as an infraction.

Existing law, the Cigarette and Tobacco Products Licensing Act, requires the State Board of Equalization to administer a statewide program to license manufacturers, importers, distributors, wholesalers, and retailers of cigarettes and tobacco products. Existing law makes a violation of the Cigarette and Tobacco Products Licensing Act a misdemeanor punishable by a fine not to exceed \$5,000, by imprisonment not exceeding one year in a county jail, or by both the

fine and imprisonment. Existing law also permits the State Board of Equalization to assess various civil penalties for violations of the Cigarette and Tobacco Products Licensing Act.

This bill would extend the STAKE Act to sales of electronic cigarettes to minors. The bill would require the State Department of Public Health to enforce the STAKE Act's provisions with regard to sales of electronic cigarettes commencing July 1, 2016.

The bill would provide that the STAKE Act does not invalidate existing local government ordinances regulating the distribution or sale of cigarettes, electronic cigarettes, or tobacco products, or prohibit local governments from adopting ordinances regulating the distribution or sale of cigarettes, electronic cigarettes, or tobacco products that are more restrictive than state law.

The bill would require that retailers apply for a license to sell electronic cigarettes commencing April 15, 2016, and to display the license at each retail location commencing June 30, 2016. The bill would require the State Board of Equalization to administer a statewide program to license retailers of electronic cigarettes.

The bill would make the failure to post a notice, on and after July 1, 2016, at each point of purchase, stating that the sale of electronic cigarettes to minors is illegal, a crime. The bill would also make retailers of electronic cigarettes subject to various civil and criminal penalties if they fail to comply with licensing requirements. By expanding the scope of existing crimes, the bill would impose a state-mandated local program.

The bill would require that cartridges for electronic cigarettes and solutions for filling electronic cigarettes be in child-proof packaging to protect children from opening and ingesting the contents.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 22950.1 is added to the Business and
- 2 Professions Code, to read:

1 22950.1. Nothing in this division nor any other law shall be  
2 construed to invalidate an existing ordinance of, or prohibit the  
3 adoption of an ordinance by, a city or county that regulates the  
4 distribution or sale of cigarettes, electronic cigarettes, or tobacco  
5 products in a manner that is more restrictive than this division, to  
6 the extent that the ordinance is not otherwise prohibited by federal  
7 law.

8 SEC. 2. Section 22950.5 of the Business and Professions Code  
9 is amended to read:

10 22950.5. For purposes of this division, the following terms  
11 have the following meanings:

12 (a) “Department” means the State Department of Public Health.

13 (b) “Enforcing agency” means the State Department of Public  
14 Health, another state agency, including, but not limited to, the  
15 office of the Attorney General, or a local law enforcement agency,  
16 including, but not limited to, a city attorney, district attorney, or  
17 county counsel.

18 (c) *“Tobacco product” means a product containing tobacco*  
19 *leaf, including, but not limited to, cigarettes, cigars, pipe tobacco,*  
20 *snuff, chewing tobacco, dipping tobacco, bidis, or other*  
21 *preparation of tobacco, or a tobacco substitute.*

22 (d) *“Electronic cigarette” means a device that can provide an*  
23 *inhalable dose of nicotine by delivering a vaporized solution.*

24 SEC. 3. Section 22951 of the Business and Professions Code  
25 is amended to read:

26 22951. The Legislature finds and declares that reducing and  
27 eventually eliminating the illegal purchase and consumption of  
28 tobacco products *and electronic cigarettes* by minors is critical to  
29 ensuring the long-term health of our state’s citizens. Accordingly,  
30 California must fully comply with federal regulations, particularly  
31 the “Synar Amendment,” that restrict tobacco sales to minors and  
32 require states to vigorously enforce their laws prohibiting the sale  
33 and distribution of tobacco products to persons under 18 years of  
34 age. Full compliance and vigorous enforcement of the “Synar  
35 Amendment” requires the collaboration of multiple state and local  
36 agencies that license, inspect, or otherwise conduct business with  
37 retailers, distributors, or wholesalers that sell tobacco.

38 SEC. 4. Section 22952 of the Business and Professions Code  
39 is amended to read:

1 22952. ~~On or before July 1, 1995, the~~ *The* State Department  
2 of Public Health shall do all of the following:

3 (a) Establish and develop a program to reduce the availability  
4 of tobacco products *and electronic cigarettes* to persons under 18  
5 years of age through the enforcement activities authorized by this  
6 division.

7 (b) Establish requirements that retailers of tobacco products *or*  
8 *electronic cigarettes* post conspicuously, at each point of purchase,  
9 a notice stating that selling tobacco products *or electronic*  
10 *cigarettes* to anyone under 18 years of age is illegal and subject  
11 to penalties. The notice shall also state that the law requires that  
12 all persons selling tobacco products *or electronic cigarettes* check  
13 the identification of a purchaser of tobacco products *or electronic*  
14 *cigarettes* who reasonably appears to be under 18 years of age.  
15 The warning signs shall include a toll-free telephone number to  
16 the department for persons to report unlawful sales of tobacco  
17 products *or electronic cigarettes* to minors.

18 (c) Provide that primary responsibility for enforcement of this  
19 division shall be with the department. In carrying out its  
20 enforcement responsibilities, the department shall conduct random,  
21 onsite sting inspections at retail sites and shall enlist the assistance  
22 of persons that are 15 and 16 years of age in conducting these  
23 enforcement activities. The department may conduct onsite sting  
24 inspections in response to public complaints or at retail sites where  
25 violations have previously occurred, and investigate illegal sales  
26 of tobacco products *or electronic cigarettes* to minors by telephone,  
27 mail, or the Internet. Participation in these enforcement activities  
28 by a person under 18 years of age does not constitute a violation  
29 of subdivision (b) of Section 308 of the Penal Code for the person  
30 under 18 years of age, and the person under 18 years of age is  
31 immune from prosecution thereunder, or under any other provision  
32 of law prohibiting the purchase of these products by a person under  
33 18 years of age.

34 (d) In accordance with Chapter 3.5 (commencing with Section  
35 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
36 the department shall adopt and publish guidelines for the use of  
37 persons under 18 years of age in inspections conducted pursuant  
38 to subdivision (c) that shall include, but not be limited to, all of  
39 the following:

1 (1) An enforcing agency may use persons under 18 years of age  
2 who are 15 or 16 years of age in random inspections to determine  
3 if sales of cigarettes, *electronic cigarettes*, or other tobacco  
4 products are being made to persons under 18 years of age.

5 (2) A photograph or video recording of the person under 18  
6 years of age shall be taken prior to each inspection or shift of  
7 inspections and retained by the enforcing agency for purposes of  
8 verifying appearances.

9 (3) An enforcing agency may use video recording equipment  
10 when conducting the inspections to record and document illegal  
11 sales or attempted sales.

12 (4) The person under 18 years of age, if questioned about his  
13 or her age, need not state his or her actual age but shall present a  
14 true and correct identification if verbally asked to present it. Any  
15 failure on the part of the person under 18 years of age to provide  
16 true and correct identification, if verbally asked for it, shall be a  
17 defense to an action pursuant to this section.

18 (5) The person under 18 years of age shall be under the  
19 supervision of a regularly employed peace officer during the  
20 inspection.

21 (6) All persons under 18 years of age used in this manner by an  
22 enforcing agency shall display the appearance of a person under  
23 18 years of age. It shall be a defense to an action under this division  
24 that the person's appearance was not that which could be generally  
25 expected of a person under 18 years of age, under the actual  
26 circumstances presented to the seller of the cigarettes, *electronic*  
27 *cigarettes*, or other tobacco products at the time of the alleged  
28 offense.

29 (7) Following the completion of the sale, the peace officer  
30 accompanying the person under 18 years of age shall reenter the  
31 retail establishment and shall inform the seller of the random  
32 inspection. Following an attempted sale, the enforcing agency shall  
33 notify the retail establishment of the inspection.

34 (8) Failure to comply with the procedures set forth in this  
35 subdivision shall be a defense to an action brought pursuant to this  
36 section.

37 (e) Be responsible for ensuring and reporting the state's  
38 compliance with Section 1926 of Title XIX of the federal Public  
39 Health Service Act (42 U.S.C. Sec. 300x-26) and any implementing  
40 regulations adopted in relation thereto by the United States

1 Department of Health and Human Services. A copy of this report  
2 shall be made available to the Governor and the Legislature.

3 (f) Provide that any civil penalties imposed pursuant to Section  
4 22958 shall be enforced against the owner or owners of the retail  
5 business and not the employees of the business.

6 (g) *The amendments made to this section by the act adding this*  
7 *subdivision shall become operative on July 1, 2016.*

8 SEC. 5. Section 22956 of the Business and Professions Code  
9 is amended to read:

10 22956. All persons engaging in the retail sale of tobacco  
11 products *or electronic cigarettes* shall check the identification of  
12 ~~tobacco~~ purchasers *of those items*, to establish the age of the  
13 purchaser, if the purchaser reasonably appears to be under 18 years  
14 of age.

15 SEC. 6. Section 22958 of the Business and Professions Code  
16 is amended to read:

17 22958. (a) An enforcing agency may assess civil penalties  
18 against any person, firm, or corporation that sells, gives, or in any  
19 way furnishes to another person who is under the age of 18 years,  
20 any tobacco, cigarette, *electronic cigarette*, cigarette papers, any  
21 other instrument or paraphernalia that is designed for the smoking  
22 or ingestion of tobacco, products prepared from tobacco, or any  
23 controlled substance, according to the following schedule: (1) a  
24 civil penalty of from four hundred dollars (\$400) to six hundred  
25 dollars (\$600) for the first violation, (2) a civil penalty of from  
26 nine hundred dollars (\$900) to one thousand dollars (\$1,000) for  
27 the second violation within a five-year period, (3) a civil penalty  
28 of from one thousand two hundred dollars (\$1,200) to one thousand  
29 eight hundred dollars (\$1,800) for a third violation within a  
30 five-year period, (4) a civil penalty of from three thousand dollars  
31 (\$3,000) to four thousand dollars (\$4,000) for a fourth violation  
32 within a five-year period, or (5) a civil penalty of from five  
33 thousand dollars (\$5,000) to six thousand dollars (\$6,000) for a  
34 fifth violation within a five-year period.

35 (b) (1) In addition to the civil penalties described in subdivision  
36 (a), upon the assessment of a civil penalty for the third, fourth, or  
37 fifth violation, the department, within 60 days of the date of service  
38 of the final administrative adjudication on the parties or payment  
39 of the civil penalty for an uncontested violation, shall notify the  
40 State Board of Equalization of the violation. The State Board of

1 Equalization shall then assess a civil penalty of two hundred fifty  
2 dollars (\$250) and suspend or revoke a license issued pursuant to  
3 Chapter 2 (commencing with Section 22972) of Division 8.6 in  
4 accordance with the following schedule:

5 (A) A 45-day suspension of the license for a third violation at  
6 the same location within a five-year period.

7 (B) A 90-day suspension of the license for a fourth violation at  
8 the same location within a five-year period.

9 (C) Revocation of the license for a fifth violation at the same  
10 location within a five-year period.

11 (2) The provisions of Chapter 4 (commencing with Section  
12 55121) of Part 30 of Division 2 of the Revenue and Taxation Code  
13 apply with respect to the collection of the penalty imposed by the  
14 State Board of Equalization pursuant to paragraph (1).

15 (c) (1) For each suspension or revocation pursuant to  
16 subdivision (b), the civil penalty of two hundred fifty dollars (\$250)  
17 assessed pursuant to that subdivision, notwithstanding Section  
18 22953, shall be deposited into the Cigarette and Tobacco Products  
19 Compliance Fund established pursuant to Section 22990. Moneys  
20 from that civil penalty deposited into this fund shall be made  
21 available to the State Board of Equalization, upon appropriation  
22 by the Legislature, for the purposes of meeting its duties under  
23 subdivision (b).

24 (2) The department shall, upon request, provide to the State  
25 Board of Equalization information concerning any person, firm,  
26 or corporation that has been assessed a civil penalty for violation  
27 of the STAKE Act pursuant to this section when the department  
28 has notified the State Board of Equalization of the violation.

29 (d) The enforcing agency shall assess penalties pursuant to the  
30 schedule set forth in subdivision (a) against a person, firm, or  
31 corporation that sells, offers for sale, or distributes tobacco products  
32 *or electronic cigarettes* from a cigarette or tobacco products  
33 vending machine, or a person, firm, or corporation that leases,  
34 furnishes, or services these machines in violation of Section 22960.

35 (e) An enforcing agency may assess civil penalties against a  
36 person, firm, or corporation that sells or deals in tobacco or any  
37 preparation thereof, and fails to post conspicuously and keep posted  
38 in the place of business at each point of purchase the notice  
39 required pursuant to subdivision (b) of Section 22952. The civil  
40 penalty shall be in the amount of two hundred dollars (\$200) for

1 the first offense and five hundred dollars (\$500) for each additional  
2 violation.

3 (f) An enforcing agency shall assess penalties in accordance  
4 with the schedule set forth in subdivision (a) against a person, firm,  
5 or corporation that advertises or causes to be advertised a tobacco  
6 product *or electronic cigarette* on an outdoor billboard in violation  
7 of Section 22961.

8 (g) If a civil penalty has been assessed pursuant to this section  
9 against a person, firm, or corporation for a single, specific violation  
10 of this division, the person, firm, or corporation shall not be  
11 prosecuted under Section 308 of the Penal Code for a violation  
12 based on the same facts or specific incident for which the civil  
13 penalty was assessed. If a person, firm, or corporation has been  
14 prosecuted for a single, specific violation of Section 308 of the  
15 Penal Code, the person, firm, or corporation shall not be assessed  
16 a civil penalty under this section based on the same facts or specific  
17 incident upon which the prosecution under Section 308 of the Penal  
18 Code was based.

19 (h) (1) In the case of a corporation or business with more than  
20 one retail location, to determine the number of accumulated  
21 violations for purposes of the penalty schedule set forth in  
22 subdivision (a), violations of this division by one retail location  
23 shall not be accumulated against other retail locations of that same  
24 corporation or business.

25 (2) In the case of a retail location that operates pursuant to a  
26 franchise as defined in Section 20001, violations of this division  
27 accumulated and assessed against a prior owner of a single  
28 franchise location shall not be accumulated against a new owner  
29 of the same single franchise location for purposes of the penalty  
30 schedule set forth in subdivision (a).

31 (i) Proceedings under this section shall be conducted pursuant  
32 to Section 131071 of the Health and Safety Code, except in cases  
33 where a civil penalty is assessed by an enforcing agency other than  
34 the department, in which case proceedings shall be conducted  
35 pursuant to the procedures of that agency that are consistent with  
36 Section 131071 of the Health and Safety Code.

37 SEC. 7. Section 22960 of the Business and Professions Code  
38 is amended to read:

39 22960. (a) Except as provided in subdivision (b), ~~no~~ a cigarette,  
40 *electronic cigarette*, or tobacco product shall *not* be sold, offered

1 for sale, or distributed from a vending machine or appliance, or  
2 any other coin or token operated mechanical device designed or  
3 used for vending purposes, including, but not limited to, machines  
4 or devices that use remote control locking mechanisms.

5 (b) (1) ~~Commencing January 1, 1996, cigarette~~ *Cigarette,*  
6 *electronic cigarette,* or tobacco product vending machines or  
7 appliances may be located at least 15 feet away from the entrance  
8 of a premise issued an on-sale public premises license as defined  
9 in Section 23039 by the Department of Alcoholic Beverage Control  
10 to sell alcoholic beverages.

11 (2) As used in this subdivision “at least 15 feet away from the  
12 entrance” means within the premises of the licensed establishment  
13 and not outside those premises.

14 (c) This section and subdivision (b) of Section 22958 set forth  
15 minimum state restrictions on the sale of cigarettes, *electronic*  
16 *cigarettes,* or tobacco products from vending machines or devices  
17 and do not preempt or otherwise prohibit the adoption of a local  
18 standard that further restricts access to and reduces the availability  
19 of cigarettes, *electronic cigarettes,* or tobacco products from  
20 vending machines or devices or that imposes a complete ban on  
21 the sale of cigarettes or tobacco products from vending machines  
22 or devices. A local standard that further restricts or imposes a  
23 complete ban on the sale of cigarettes, *electronic cigarettes,* or  
24 tobacco products from vending machines or devices shall control  
25 in the event of an inconsistency between this section and a local  
26 standard.

27 (d) *The amendments made to this section by the act adding this*  
28 *subdivision shall become operative on July 1, 2016.*

29 SEC. 8. Section 22961 of the Business and Professions Code  
30 is amended to read:

31 22961. (a) No person, firm, corporation, partnership, or other  
32 organization shall advertise or cause to be advertised any tobacco  
33 products *or electronic cigarettes* on any outdoor billboard located  
34 within 1,000 feet of any public or private elementary school, junior  
35 high school, or high school, or public playground.

36 (b) This section sets forth minimum state restrictions on the  
37 advertisement of any tobacco products *or electronic cigarettes* on  
38 outdoor billboards near schools and public playgrounds and does  
39 not preempt or otherwise prohibit the adoption of a local standard  
40 that imposes a more restrictive or complete ban on billboard

1 advertising or on tobacco-related billboard advertising. A local  
2 standard that imposes a more restrictive or complete ban on  
3 billboard advertising or on tobacco-related billboard advertising  
4 shall control in the event of any inconsistency between this section  
5 and a local standard.

6 (c) This section shall not be construed to prohibit the display  
7 of a message or advertisement opposing the use of tobacco products  
8 *or electronic cigarettes*. However, this subdivision shall not be  
9 construed to permit an advertisement promoting the use of tobacco  
10 products *or electronic cigarettes* by including a message opposing  
11 the use of tobacco products *or electronic cigarettes* within that  
12 advertisement.

13 SEC. 9. Section 22962 of the Business and Professions Code  
14 is amended to read:

15 22962. (a) For purposes of this section, the following terms  
16 have the following meanings:

17 (1) “Self-service display” means the open display of *electronic*  
18 *cigarettes*, tobacco products, or tobacco paraphernalia in a manner  
19 that is accessible to the general public without the assistance of  
20 the retailer or employee of the retailer.

21 (2) “Tobacco paraphernalia” means cigarette papers or wrappers,  
22 blunt wraps as defined in Section 308 of the Penal Code, pipes,  
23 holders of smoking materials of all types, cigarette rolling  
24 machines, or other instruments or things designed for the smoking  
25 or ingestion of tobacco products.

26 ~~(3) “Tobacco product” means any product containing tobacco~~  
27 ~~leaf, including, but not limited to, cigarettes, cigars, pipe tobacco,~~  
28 ~~snuff, chewing tobacco, dipping tobacco, bidis, or any other~~  
29 ~~preparation of tobacco.~~

30 ~~(4)~~

31 (3) “Tobacco store” means a retail business that meets all of the  
32 following requirements:

33 (A) Primarily sells tobacco products *or electronic cigarettes*.

34 (B) Generates more than 60 percent of its gross revenues  
35 annually from the sale of *electronic cigarettes*, tobacco products  
36 *products*, and tobacco paraphernalia.

37 (C) Does not permit any person under 18 years of age to be  
38 present or enter the premises at any time, unless accompanied by  
39 the person’s parent or legal guardian, as defined in Section 6903  
40 of the Family Code.

1 (D) Does not sell alcoholic beverages or food for consumption  
2 on the premises.

3 (b) (1) (A) Except as permitted in subdivision (b) of Section  
4 22960, it is unlawful for a person engaged in the retail sale of  
5 tobacco products *or electronic cigarettes* to sell, offer for sale, or  
6 display for sale any *electronic cigarette, tobacco-product product,*  
7 or tobacco paraphernalia by self-service display. A person who  
8 violates this section is subject to those civil penalties specified in  
9 the schedule in subdivision (a) of Section 22958.

10 (B) A person who violates this section is subject to those civil  
11 penalties specified in the schedule in subdivision (a) of Section  
12 22958.

13 (2) It is unlawful for a person engaged in the retail sale of blunt  
14 wraps to place or maintain, or to cause to be placed or maintained,  
15 any blunt wraps advertising display within two feet of candy,  
16 snack, or nonalcoholic beverage displayed inside any store or  
17 business.

18 (3) It is unlawful for any person or business to place or maintain,  
19 or cause to be placed or maintained, any blunt wrap advertising  
20 display that is less than four feet above the floor.

21 (c) Subdivision (b) shall not apply to the display in a tobacco  
22 store of cigars, pipe tobacco, snuff, chewing tobacco, or dipping  
23 tobacco, provided that in the case of cigars they are generally not  
24 sold or offered for sale in a sealed package of the manufacturer or  
25 importer containing less than six cigars. In any enforcement action  
26 brought pursuant to this division, the retail business that displays  
27 any of the items described in this subdivision in a self-service  
28 display shall have the burden of proving that it qualifies for the  
29 exemption established in this subdivision.

30 (d) The Attorney General, a city attorney, a county counsel, or  
31 a district attorney may bring a civil action to enforce this section.

32 (e) This section does not preempt or otherwise prohibit the  
33 adoption of a local standard that imposes greater restrictions on  
34 the access to tobacco products *or electronic cigarettes* than the  
35 restrictions imposed by this section. To the extent that there is an  
36 inconsistency between this section and a local standard that  
37 imposes greater restrictions on the access to tobacco products *or*  
38 *electronic cigarettes*, the greater restriction on the access to tobacco  
39 products *or electronic cigarettes* in the local standard shall prevail.

1 SEC. 10. Section 22963 of the Business and Professions Code  
2 is amended to read:

3 22963. (a) The sale, distribution, or nonsale distribution of  
4 tobacco products *or electronic cigarettes* directly or indirectly to  
5 any person under the age of 18 years through the United States  
6 Postal Service or through any other public or private postal or  
7 package delivery service at locations, including, but not limited  
8 to, public mailboxes and mailbox stores, is prohibited.

9 (b) Any person selling or distributing, or engaging in the nonsale  
10 distribution of, tobacco products *or electronic cigarettes* directly  
11 to a consumer in the state through the United States Postal Service  
12 or by any other public or private postal or package delivery service,  
13 including orders placed by mail, telephone, facsimile transmission,  
14 or the Internet, shall comply with the following provisions:

15 (1) (A) Before enrolling a person as a customer, or distributing  
16 or selling, or engaging in the nonsale distribution of, the tobacco  
17 product *or electronic cigarette* through any of these means, the  
18 distributor or seller shall verify that the purchaser or recipient of  
19 the product is 18 years of age or older. The distributor or seller  
20 shall attempt to match the name, address, and date of birth provided  
21 by the customer to information contained in records in a database  
22 of individuals whose age has been verified to be 18 years or older  
23 by reference to an appropriate database of government records  
24 kept by the distributor, a direct marketing firm, or any other entity.  
25 In the case of a sale, the distributor or seller shall also verify that  
26 the billing address on the check or credit card offered for payment  
27 by the purchaser matches the address listed in the database.

28 (B) If the seller, distributor, or nonsale distributor, is unable to  
29 verify that the purchaser or recipient is 18 years of age or older  
30 pursuant to subparagraph (A), he or she shall require the customer  
31 or recipient to submit an age-verification kit consisting of an  
32 attestation signed by the customer or recipient that he or she is 18  
33 years of age or older and a copy of a valid form of government  
34 identification. For the purposes of this section, a valid form of  
35 government identification includes a driver's license, state  
36 identification card, passport, an official naturalization or  
37 immigration document, such as an alien registration receipt card  
38 (commonly known as a "green card") or an immigrant visa, or  
39 military identification. In the case of a sale, the distributor or seller  
40 shall also verify that the billing address on the check or credit card

1 provided by the consumer matches the address listed in the form  
2 of government identification.

3 (2) In the case of a sale, the distributor or seller shall impose a  
4 two-carton minimum on each order of cigarettes, and shall require  
5 payment for the purchase of any tobacco product *or electronic*  
6 *cigarette* to be made by personal check of the purchaser or the  
7 purchaser's credit card. No money order or cash payment shall be  
8 received or permitted. The distributor or seller shall submit to each  
9 credit card acquiring company with which it has credit card sales  
10 identification information in an appropriate form and format so  
11 that the words "tobacco product" *or "electronic cigarette"* may  
12 be printed in the purchaser's credit card statement when a purchase  
13 of a tobacco product *or electronic cigarette* is made by credit card  
14 payment.

15 (3) In the case of a sale, the distributor or seller shall make a  
16 telephone call after 5 p.m. to the purchaser confirming the order  
17 prior to shipping the tobacco products *or electronic cigarettes*.  
18 The telephone call may be a person-to-person call or a recorded  
19 message. The distributor or seller is not required to speak directly  
20 with a person and may leave a message on an answering machine  
21 or by voice mail.

22 (4) The nonsale distributor shall deliver the tobacco product *or*  
23 *electronic cigarette* to the recipient's verified mailing address, or  
24 in the case of a sale, the seller or distributor shall deliver the  
25 tobacco product *or electronic cigarette* to the purchaser's verified  
26 billing address on the check or credit card used for payment. No  
27 delivery described under this section shall be permitted to any post  
28 office box.

29 (c) Notwithstanding subdivisions (a) and (b), if a seller,  
30 distributor, or nonsale distributor, complies with all of the  
31 requirements of this section and a minor obtains a tobacco product  
32 *or electronic cigarette* by any of the means described in subdivision  
33 (b), the seller, distributor, or nonsale distributor is not in violation  
34 of this section.

35 (d) For the purposes of the enforcement of this section pursuant  
36 to Section 22958, the acts of the United States Postal Service or  
37 other common carrier when engaged in the business of transporting  
38 and delivering packages for others, and the acts of a person,  
39 whether compensated or not, who transports or delivers a package

1 for another person without any reason to know of the package's  
2 contents, are not unlawful and are not subject to civil penalties.

3 (e) (1) (A) For the purposes of this section, a “distributor” is  
4 any person or entity, within or outside the state, who agrees to  
5 distribute tobacco products *or electronic cigarettes* to a customer  
6 or recipient within the state. The United States Postal Service or  
7 any other public or private postal or package delivery service are  
8 not distributors within the meaning of this section.

9 (B) A “nonsale distributor” is any person inside or outside of  
10 this state who, directly or indirectly, knowingly provides tobacco  
11 products *or electronic cigarettes* to any person in this state as part  
12 of a nonsale transaction. “Nonsale distributor” includes the person  
13 or entity who provides the tobacco product *or electronic cigarette*  
14 for delivery and the person or entity who delivers the product to  
15 the recipient as part of a nonsale transaction.

16 (C) “Nonsale distribution” means to give *electronic cigarettes*,  
17 smokeless ~~tobacco~~ *tobacco*, or cigarettes to the general public at  
18 no cost, or at nominal cost, or to give coupons, coupon offers, gift  
19 certificates, gift cards, or other similar offers, or rebate offers for  
20 *electronic cigarettes*, smokeless ~~tobacco~~ *tobacco*, or cigarettes to  
21 the general public at no cost or at nominal cost. Distribution of  
22 *electronic cigarettes*, tobacco products, coupons, coupon offers,  
23 gift certificates, gift cards, or other similar offers, or rebate offers  
24 in connection with the sale of another item, including *electronic*  
25 *cigarettes*, tobacco products, cigarette lighters, magazines, or  
26 newspapers shall not constitute nonsale distribution.

27 (2) For the purpose of this section, a “seller” is any person or  
28 entity, within or outside the state, who agrees to sell tobacco  
29 products *or electronic cigarettes* to a customer within the state.  
30 The United States Postal Service or any other public or private  
31 postal or package delivery service are not sellers within the  
32 meaning of this section.

33 (3) For the purpose of this section, a “carton” is a package or  
34 container that contains 200 cigarettes.

35 (f) A district attorney, city attorney, or the Attorney General  
36 may assess civil penalties against any person, firm, corporation,  
37 or other entity that violates this section, according to the following  
38 schedule:

1 (1) A civil penalty of not less than one thousand dollars (\$1,000)  
2 and not more than two thousand dollars (\$2,000) for the first  
3 violation.

4 (2) A civil penalty of not less than two thousand five hundred  
5 dollars (\$2,500) and not more than three thousand five hundred  
6 dollars (\$3,500) for the second violation.

7 (3) A civil penalty of not less than four thousand dollars (\$4,000)  
8 and not more than five thousand dollars (\$5,000) for the third  
9 violation within a five-year period.

10 (4) A civil penalty of not less than five thousand five hundred  
11 dollars (\$5,500) and not more than six thousand five hundred  
12 dollars (\$6,500) for the fourth violation within a five-year period.

13 (5) A civil penalty of ten thousand dollars (\$10,000) for a fifth  
14 or subsequent violation within a five-year period.

15 SEC. 11. Section 22970.2 of the Business and Professions  
16 Code is amended to read:

17 22970.2. The board shall administer a statewide program to  
18 license manufacturers, importers, distributors, wholesalers, and  
19 retailers of cigarettes and tobacco products, *and retailers of*  
20 *electronic cigarettes.*

21 SEC. 12. Section 22971 of the Business and Professions Code  
22 is amended to read:

23 22971. For purposes of this division, the following terms shall  
24 have the following meanings:

25 (a) “Board” means the State Board of Equalization.

26 (b) “Brand family” has the same meaning as that term is defined  
27 in paragraph (2) of subdivision (a) of Section 30165.1 of the  
28 Revenue and Taxation Code.

29 (c) (1) “Cigarette” means a cigarette as defined in Section  
30 30003 of the Revenue and Taxation Code.

31 (2) “*Electronic cigarette*” means a device as defined in  
32 *subdivision (d) of Section 22950.5.*

33 (d) (1) “Control” or “controlling” means possession, direct or  
34 indirect, of the power:

35 (A) To vote 25 percent or more of any class of the voting  
36 securities issued by a person.

37 (B) To direct or cause the direction of the management and  
38 policies of a person, whether through the ownership of voting  
39 securities, by contract, other than a commercial contract for goods  
40 or nonmanagement services, or as otherwise provided; however,

1 no individual shall be deemed to control a person solely on account  
2 of being a director, officer, or employee of that person.

3 (2) For purposes of subparagraph (B) of paragraph (1), a person  
4 who, directly or indirectly, owns, controls, holds, with the power  
5 to vote, or holds proxies representing 10 percent or more of the  
6 then outstanding voting securities issued by another person, is  
7 presumed to control that other person.

8 (3) For purposes of this division, the board may determine  
9 whether a person in fact controls another person.

10 (e) “Display for sale” means the placement of cigarettes,  
11 *electronic cigarettes*, or tobacco products in a vending machine  
12 or in retail stock for the purpose of selling or gifting the cigarettes,  
13 *electronic cigarettes*, or tobacco products. For purposes of this  
14 definition, the clear and easily visible display of cigarettes,  
15 *electronic cigarettes*, or tobacco products shall create a rebuttable  
16 presumption that ~~either~~ *the products* were displayed for sale.

17 (f) “Distributor” means a distributor as defined in Section 30011  
18 of the Revenue and Taxation Code.

19 (g) “Gifting” means any transfer of title or possession without  
20 consideration, exchange, or barter, in any manner or by any means,  
21 of cigarettes, *electronic cigarettes*, or tobacco products that have  
22 been purchased for resale under a license issued pursuant to this  
23 division if the transfer occurs while the license is suspended or  
24 after the effective date of its revocation.

25 (h) “Importer” means an importer as defined in Section 30019  
26 of the Revenue and Taxation Code.

27 (i) “Law enforcement agency” means a sheriff, a police  
28 department, or a city, county, or city and county agency or  
29 department designated by the governing body of that agency to  
30 enforce this chapter or to enforce local smoking and tobacco  
31 ordinances and regulations.

32 (j) “License” means a license issued by the board pursuant to  
33 this division.

34 (k) “Licensee” means any person holding a license issued by  
35 the board pursuant to this division.

36 (l) “Manufacturer” means a manufacturer of cigarettes,  
37 *electronic cigarettes*, or tobacco products sold in this state.

38 (m) “Notice” or “notification” means, unless as otherwise  
39 provided, the written notice or notification provided to a licensee  
40 by the board by either actual delivery to the licensee or by

1 first-class mail addressed to the licensee at the address on the  
2 license.

3 (n) “Package of cigarettes” means a package as defined in  
4 Section 30015 of the Revenue and Taxation Code.

5 (o) “Person” means a person as defined in Section 30010 of the  
6 Revenue and Taxation Code.

7 (p) “Retailer” means a person who engages in this state in the  
8 sale of cigarettes, *electronic cigarettes*, or tobacco products directly  
9 to the public from a retail location. Retailer includes a person who  
10 operates vending machines from which cigarettes, *electronic*  
11 *cigarettes*, or tobacco products are sold in this state.

12 (q) “Retail location” means both of the following:

13 (1) Any building from which cigarettes, *electronic cigarettes*,  
14 or tobacco products are sold at retail.

15 (2) A vending machine.

16 (r) “Sale” or “sold” means a sale as defined in Section 30006  
17 of the Revenue and Taxation Code.

18 (s) “Tobacco products” means tobacco products as defined in  
19 subdivision (b) of Section 30121 and subdivision (b) of Section  
20 30131.1 of the Revenue and Taxation Code.

21 (t) “Unstamped package of cigarettes” means a package of  
22 cigarettes that does not bear a tax stamp as required under Part 13  
23 (commencing with Section 30001) of Division 2 of the Revenue  
24 and Taxation Code, including a package of cigarettes that bears a  
25 tax stamp of another state or taxing jurisdiction, a package of  
26 cigarettes that bears a counterfeit tax stamp, or a stamped or  
27 unstamped package of cigarettes that is marked “Not for sale in  
28 the United States.”

29 (u) “Wholesaler” means a wholesaler as defined in Section  
30 30016 of the Revenue and Taxation Code.

31 SEC. 13. Section 22972 of the Business and Professions Code  
32 is amended to read:

33 ~~22972. (a) Commencing June 30, 2004, a~~ A retailer shall have  
34 in place and maintain a license to engage in the sale of cigarettes,  
35 *electronic cigarettes*, or tobacco products. A retailer that owns or  
36 controls more than one retail location shall obtain a separate license  
37 for each retail location, but may submit a single application for  
38 those licenses.

39 (b) The retailer shall conspicuously display the license at each  
40 retail location in a manner visible to the public.

1 (c) A license is not assignable or transferable. A person who  
2 obtains a license as a retailer who ceases to do business as specified  
3 in the license, or who never commenced business, or whose license  
4 is suspended or revoked, shall immediately surrender the license  
5 to the board.

6 (d) A license shall be valid for a 12-month period, and shall be  
7 renewed annually.

8 (e) *The amendments made to this section by the act adding this*  
9 *subdivision shall become operative on June 30, 2016.*

10 SEC. 14. Section 22973 of the Business and Professions Code  
11 is amended to read:

12 22973. (a) An application for a license shall be filed ~~on or~~  
13 ~~before April 15, 2004~~, on a form prescribed by the board and shall  
14 include the following:

15 (1) The name, address, and telephone number of the applicant.

16 (2) The business name, address, and telephone number of each  
17 retail location. For applicants who control more than one retail  
18 location, an address for receipt of correspondence or notices from  
19 the board, such as a headquarters or corporate office of the retailer,  
20 shall also be included on the application and listed on the license.  
21 Citations issued to licensees shall be forwarded to all addressees  
22 on the license.

23 (3) A statement by the applicant affirming that the applicant  
24 has not been convicted of a felony and has not violated and will  
25 not violate or cause or permit to be violated any of the provisions  
26 of this division or any rule of the board applicable to the applicant  
27 or pertaining to the manufacture, sale, or distribution of cigarettes,  
28 *electronic cigarettes*, or tobacco products. If the applicant is unable  
29 to affirm this statement, the application shall contain a statement  
30 by the applicant of the nature of any violation or the reasons that  
31 will prevent the applicant from complying with the requirements  
32 with respect to the statement.

33 (4) If any other licenses or permits have been issued by the  
34 board or the Department of Alcoholic Beverage Control to the  
35 applicant, the license or permit number of those licenses or permits  
36 then in effect.

37 (5) A statement by the applicant that the contents of the  
38 application are complete, true, and correct. Any person who signs  
39 a statement pursuant to this subdivision that asserts the truth of  
40 any material matter that he or she knows to be false is guilty of a

1 misdemeanor punishable by imprisonment of up to one year in the  
2 county jail, or a fine of not more than one thousand dollars  
3 (\$1,000), or both the imprisonment and the fine.

4 (6) The signature of the applicant.

5 (7) Any other information the board may require.

6 (b) The board may investigate to determine the truthfulness and  
7 completeness of the information provided in the application. The  
8 board may issue a license without further investigation to an  
9 applicant for a retail location if the applicant holds a valid license  
10 from the Department of Alcoholic Beverage Control for that same  
11 location.

12 (c) The board shall provide electronic means for applicants to  
13 download and submit applications.

14 (d) (1) A one-time license fee of one hundred dollars (\$100)  
15 shall be submitted with each application. An applicant that owns  
16 or controls more than one retail location shall obtain a separate  
17 license for each retail location, but may submit a single application  
18 for those licenses with a one-time license fee of one hundred dollars  
19 (\$100) per location.

20 (2) The one-time fee required by this subdivision does not apply  
21 to an application for renewal of a license for a retail location for  
22 which the one-time license fee has already been paid. If a license  
23 is reinstated after its expiration, the retailer, as a condition  
24 precedent to its reinstatement, shall pay a reinstatement fee of one  
25 hundred dollars (\$100).

26 (3) *The one-time fee required by this subdivision does not apply*  
27 *to a retail location selling electronic cigarettes if the retail location*  
28 *has already obtained a license to sell cigarettes or tobacco*  
29 *products.*

30 (e) *The amendments made to this section by the act adding this*  
31 *subdivision shall become operative on April 15, 2016.*

32 SEC. 15. Section 22974 of the Business and Professions Code  
33 is amended to read:

34 22974. A retailer shall retain purchase invoices that meet the  
35 requirements set forth in Section 22978.4 for all cigarettes,  
36 *electronic cigarettes*, or tobacco products the retailer purchased  
37 for a period of four years. The records shall be kept at the retail  
38 location for at least one year after the purchase. Invoices shall be  
39 made available upon request during normal business hours for  
40 review inspection and copying by the board or by a law

1 enforcement agency. Any retailer found in violation of these  
2 requirements or any person who fails, refuses, or neglects to retain  
3 or make available invoices for inspection and copying in  
4 accordance with this section shall be subject to penalties pursuant  
5 to Section 22981.

6 SEC. 16. Section 22974.7 of the Business and Professions  
7 Code is amended to read:

8 22974.7. In addition to any other civil or criminal penalty  
9 provided by law, upon a finding that a retailer has violated any  
10 provision of this division, the board may take the following actions:

11 (a) In the case of the first offense, the board may revoke or  
12 suspend the license or licenses of the retailer pursuant to the  
13 procedures applicable to the revocation of a license set forth in  
14 Section 30148 of the Revenue and Taxation Code.

15 (b) In the case of a second or any subsequent offense, in addition  
16 to the action authorized under subdivision (a), the board may  
17 impose a civil penalty in an amount not to exceed the greater of  
18 either of the following:

19 (1) Five times the retail value of the seized cigarettes, *electronic*  
20 *cigarettes*, or tobacco products.

21 (2) Five thousand dollars (\$5,000).

22 SEC. 17. Section 22980 of the Business and Professions Code  
23 is amended to read:

24 22980. (a) (1) Any peace officer, or board employee granted  
25 limited peace officer status pursuant to paragraph (6) of subdivision  
26 (a) of Section 830.11 of the Penal Code, upon presenting  
27 appropriate credentials, is authorized to enter any place as described  
28 in paragraph (3) and to conduct inspections in accordance with the  
29 following paragraphs, inclusive.

30 (2) Inspections shall be performed in a reasonable manner and  
31 at times that are reasonable under the circumstances, taking into  
32 consideration the normal business hours of the place to be entered.

33 (3) Inspections may be at any place at which cigarettes,  
34 *electronic cigarettes*, or tobacco products are sold, produced, or  
35 stored or at any site where evidence of activities involving evasion  
36 of cigarette or tobacco products tax and violations of Section  
37 30165.1 of the Revenue and Taxation Code may be discovered.

38 (4) Inspections shall be requested or conducted no more than  
39 once in a 24-hour period.

1 (b) Any person that refuses to allow an inspection shall be  
2 subject to the penalties imposed pursuant to Section 22981.

3 SEC. 18. Section 22980.1 of the Business and Professions  
4 Code is amended to read:

5 22980.1. (a) No manufacturer or importer shall sell cigarettes,  
6 *electronic cigarettes*, or tobacco products to a distributor,  
7 wholesaler, retailer, or any other person who is not licensed  
8 pursuant to this division or whose license has been suspended or  
9 revoked.

10 (b) (1) Except as provided in paragraph (2), no distributor or  
11 wholesaler shall sell cigarettes, *electronic cigarettes*, or tobacco  
12 products to a retailer, wholesaler, distributor, or any other person  
13 who is not licensed pursuant to this division or whose license has  
14 been suspended or revoked.

15 (2) This subdivision does not apply to any sale of cigarettes,  
16 *electronic cigarettes*, or tobacco products by a distributor,  
17 wholesaler, or any other person to a retailer, wholesaler, distributor,  
18 or any other person that the state, pursuant to the United States  
19 Constitution, the laws of the United States, or the California  
20 Constitution, is prohibited from regulating.

21 (c) No retailer, distributor, or wholesaler shall purchase packages  
22 of cigarettes or tobacco products from a manufacturer or importer  
23 who is not licensed pursuant to this division or whose license has  
24 been suspended or revoked.

25 (d) (1) No retailer, or wholesaler shall purchase cigarettes,  
26 *electronic cigarettes*, or tobacco products from any person who is  
27 not licensed pursuant to this division or whose license has been  
28 suspended or revoked.

29 (2) Notwithstanding subdivision (c), no distributor shall purchase  
30 cigarettes, *electronic cigarettes*, or tobacco products from any  
31 person who is required to be licensed pursuant to this division but  
32 who is not licensed or whose license has been suspended or  
33 revoked.

34 (e) Each separate sale to, or by, a retailer, wholesaler, distributor,  
35 importer, manufacturer, or any other person who is not licensed  
36 pursuant to this division shall constitute a separate violation.

37 (f) No manufacturer, distributor, wholesaler, or importer may  
38 sell cigarettes, *electronic cigarettes*, or tobacco products to any  
39 retailer or wholesaler whose license has been suspended or revoked  
40 unless all outstanding debts of that retailer or wholesaler that are

1 owed to a wholesaler or distributor for cigarettes, *electronic*  
2 *cigarettes*, or tobacco products are paid and the license of that  
3 retailer or wholesaler has been reinstated by the board. Any  
4 payment received from a retailer or wholesaler shall be credited  
5 first to the outstanding debt for cigarettes, *electronic cigarettes*,  
6 or tobacco products and must be immediately reported to the board.  
7 The board shall determine the debt status of a suspended retailer  
8 or wholesaler licensee 25 days prior to the reinstatement of the  
9 license.

10 (g) No importer, distributor, or wholesaler, or distributor  
11 functioning as a wholesaler, or retailer, shall purchase, obtain, or  
12 otherwise acquire any package of cigarettes to which a stamp or  
13 meter impression may not be affixed in accordance with  
14 subdivision (b) of Section 30163 or subdivision (e) of Section  
15 30165.1 of the Revenue and Taxation Code, or any cigarettes  
16 obtained from a manufacturer or importer that cannot demonstrate  
17 full compliance with all requirements of the federal Cigarette  
18 Labeling and Advertising Act (15 U.S.C. Sec. 13335a et seq.) for  
19 the reporting of ingredients added to cigarettes.

20 (h) (1) Failure to comply with the provisions of this section  
21 shall be a misdemeanor subject to penalties pursuant to Section  
22 22981.

23 (2) Notwithstanding paragraph (1), a manufacturer or importer  
24 who uses the most up-to-date licensing information provided by  
25 the board on the board's *Internet* Web site to determine a person's  
26 licensing status is presumed to be in compliance with this section.

27 (i) The amendments that are made to this section by the act  
28 adding this subdivision shall become operative May 1, 2007.

29 SEC. 19. Section 22980.2 of the Business and Professions  
30 Code is amended to read:

31 22980.2. (a) A person or entity that engages in the business  
32 of selling cigarettes, *electronic cigarettes*, or tobacco products in  
33 this state either without a valid license or after a license has been  
34 suspended or revoked, and each officer of any corporation that so  
35 engages in this business, is guilty of a misdemeanor punishable as  
36 provided in Section 22981.

37 (b) Each day after notification by the board or by a law  
38 enforcement agency that a manufacturer, wholesaler, distributor,  
39 importer, retailer, or any other person required to be licensed under  
40 this division offers cigarettes, *electronic cigarettes*, and tobacco

1 products for sale or exchange without a valid license for the  
2 location from which they are offered for sale shall constitute a  
3 separate violation.

4 (c) Continued sales or gifting of cigarettes, *electronic cigarettes*,  
5 and tobacco products either without a valid license or after a  
6 notification of suspension or revocation shall constitute a violation  
7 punishable as provided in Section 22981, and shall result in the  
8 seizure of all cigarettes, *electronic cigarettes*, and tobacco products  
9 in the possession of the person by the board or a law enforcement  
10 agency. Any cigarettes, *electronic cigarettes*, and tobacco products  
11 seized by the board or by a law enforcement agency shall be  
12 deemed forfeited.

13 SEC. 20. Section 22980.3 of the Business and Professions  
14 Code is amended to read:

15 22980.3. (a) Licenses issued pursuant to this division shall be  
16 subject to suspension or revocation for violations of this division  
17 or the Revenue and Taxation Code as provided in this section.

18 (1) In addition to any applicable fines or penalties for a violation,  
19 upon first conviction of a violation, a licensee shall receive a  
20 written notice from the board detailing the suspension and  
21 revocation provisions of this division. At its discretion, the board  
22 may also suspend a license for up to 30 days.

23 (2) In addition to any applicable fines or penalties for a violation,  
24 upon a second conviction of a violation within four years of a  
25 previous violation, the license shall be revoked.

26 (b) The date of the occurrence of a violation shall be used to  
27 calculate the duration between subsequent violations. A violation  
28 shall be noted in the license record at the board only after judicial  
29 conviction or final adjudication of a violation.

30 (c) Upon updating a record for a violation triggering a  
31 suspension, the board shall serve the licensee with a notice of  
32 suspension and shall order the licensee to cease the sale, gifting,  
33 or displaying for sale of cigarettes, *electronic cigarettes*, or tobacco  
34 products for the period of the suspension. The notice of suspension  
35 shall inform the licensee of the effective dates of the suspension.

36 (d) Continued sales or gifting of cigarettes, *electronic cigarettes*,  
37 or tobacco products after the effective date of the suspension shall  
38 constitute a violation of this division and result in the revocation  
39 of a license.

1 (e) Upon completion of a suspension period, a license shall be  
2 reinstated by the board upon certification that all outstanding debts  
3 of that retailer or wholesaler that are owed to a wholesaler or  
4 distributor for the purchase of cigarettes, *electronic cigarettes*, and  
5 tobacco products are paid.

6 (f) Upon updating a record for a violation triggering a  
7 revocation, the board shall serve the licensee with a notice of  
8 revocation and shall order the licensee to cease the sale, gifting,  
9 or displaying for sale of cigarettes, *electronic cigarettes*, or tobacco  
10 products on and after the effective date of the revocation. The  
11 notice of revocation shall inform the licensee of the effective date  
12 of the revocation.

13 (g) After a revocation, a previously licensed applicant may apply  
14 for a new license after six months. The board may, at its discretion,  
15 issue a new license.

16 (h) Upon updating a license record for a violation, suspension,  
17 or revocation to a license of a person or entity that owns or controls  
18 more than one location, the board shall send notice in writing of  
19 the violations, suspensions, or revocations within 15 days of the  
20 board's action to the address included in the application and listed  
21 on the license for receipt of correspondence or notices from the  
22 board.

23 (i) Upon suspension or revocation of a license pursuant to this  
24 section, the board shall notify all licensed distributors and  
25 wholesalers by electronic mail within 48 hours of the suspension  
26 or revocation of that license. All licensed distributors and  
27 wholesalers shall provide the board and shall update, as necessary,  
28 an electronic mail address that the board can use for purposes of  
29 making the notifications required by this subdivision.

30 (j) Violations by a licensee at one location may not be  
31 accumulated against other locations of that same licensee.  
32 Violations accumulated against a prior owner at a licensed location  
33 may not be accumulated against a new owner at the same licensed  
34 location.

35 (k) For purposes of this section, a violation includes violations  
36 of the Revenue and Taxation Code relating to cigarettes and  
37 tobacco products, and violations of this division. Only one violation  
38 per discrete action shall be counted toward a suspension or  
39 revocation of a license.

1 SEC. 21. Section 22980.4 of the Business and Professions  
2 Code is amended to read:

3 22980.4. A person who, after receiving a notice of suspension  
4 or revocation, continues to display for sale cigarettes, *electronic*  
5 *cigarettes*, or tobacco products shall be subject to a civil penalty  
6 of one thousand dollars (\$1,000) for each offense, and shall not  
7 be subject to Section 22981.

8 SEC. 22. Section 119406 is added to the Health and Safety  
9 Code, to read:

10 119406. (a) All cartridges for electronic cigarettes and  
11 solutions for filling or refilling an electronic cigarette shall be in  
12 child-proof packaging.

13 (b) “Child-proof packaging” means packaging that contains  
14 elements, including, but not limited to, safety caps or blister packs,  
15 designed to protect children from being able to open and ingest  
16 the contents.

17 SEC. 23. Section 308 of the Penal Code is amended to read:

18 308. (a) (1) Every person, firm, or corporation that knowingly  
19 or under circumstances in which it has knowledge, or should  
20 otherwise have grounds for knowledge, sells, gives, or in any way  
21 furnishes to another person who is under the age of 18 years any  
22 tobacco, cigarette, or cigarette papers, or blunts wraps, or any other  
23 preparation of tobacco, or any other instrument or paraphernalia  
24 that is designed for the smoking or ingestion of tobacco, products  
25 prepared from tobacco, or any controlled substance, is subject to  
26 either a criminal action for a misdemeanor or to a civil action  
27 brought by a city attorney, a county counsel, or a district attorney,  
28 punishable by a fine of two hundred dollars (\$200) for the first  
29 offense, five hundred dollars (\$500) for the second offense, and  
30 one thousand dollars (\$1,000) for the third offense.

31 Notwithstanding Section 1464 or any other law, 25 percent of  
32 each civil and criminal penalty collected pursuant to this  
33 subdivision shall be paid to the office of the city attorney, county  
34 counsel, or district attorney, whoever is responsible for bringing  
35 the successful action, and 25 percent of each civil and criminal  
36 penalty collected pursuant to this subdivision shall be paid to the  
37 city or county for the administration and cost of the community  
38 service work component provided in subdivision (b).

39 Proof that a defendant, or his or her employee or agent,  
40 demanded, was shown, and reasonably relied upon evidence of

1 majority shall be defense to any action brought pursuant to this  
2 subdivision. Evidence of majority of a person is a facsimile of or  
3 a reasonable likeness of a document issued by a federal, state,  
4 county, or municipal government, or subdivision or agency thereof,  
5 including, but not limited to, a motor vehicle operator's license, a  
6 registration certificate issued under the federal Selective Service  
7 Act, or an identification card issued to a member of the Armed  
8 Forces.

9 For purposes of this section, the person liable for selling or  
10 furnishing tobacco products to minors by a tobacco vending  
11 machine shall be the person authorizing the installation or  
12 placement of the tobacco vending machine upon premises he or  
13 she manages or otherwise controls and under circumstances in  
14 which he or she has knowledge, or should otherwise have grounds  
15 for knowledge, that the tobacco vending machine will be utilized  
16 by minors.

17 (2) For purposes of this section, "blunt wraps" means cigar  
18 papers or cigar wrappers of all types that are designed for smoking  
19 or ingestion of tobacco products and contain less than 50 percent  
20 tobacco.

21 (b) Every person under the age of 18 years who purchases,  
22 receives, or possesses any tobacco, cigarette, or cigarette papers,  
23 or any other preparation of tobacco, or any other instrument or  
24 paraphernalia that is designed for the smoking of tobacco, products  
25 prepared from tobacco, or any controlled substance shall, upon  
26 conviction, be punished by a fine of seventy-five dollars (\$75) or  
27 30 hours of community service work.

28 (c) Every person, firm, or corporation that sells, or deals in  
29 tobacco or any preparation thereof, *and, on and after July 1, 2016,*  
30 *every person, firm, or corporation that sells or deals in electronic*  
31 *cigarettes*, shall post conspicuously and keep so posted in his, her,  
32 or their place of business at each point of purchase the notice  
33 required pursuant to subdivision (b) of Section 22952 of the  
34 Business and Professions Code, and any person failing to do so  
35 shall, upon conviction, be punished by a fine of fifty dollars (\$50)  
36 for the first offense, one hundred dollars (\$100) for the second  
37 offense, two hundred fifty dollars (\$250) for the third offense, and  
38 five hundred dollars (\$500) for the fourth offense and each  
39 subsequent violation of this provision, or by imprisonment in a  
40 county jail not exceeding 30 days.

1 (d) For purposes of determining the liability of persons, firms,  
2 or corporations controlling franchises or business operations in  
3 multiple locations for the second and subsequent violations of this  
4 section, each individual franchise or business location shall be  
5 deemed a separate entity.

6 (e) Notwithstanding subdivision (b), any person under 18 years  
7 of age who purchases, receives, or possesses any tobacco, cigarette,  
8 *electronic cigarette*, or cigarette papers, or any other preparation  
9 of tobacco, any other instrument or paraphernalia that is designed  
10 for the smoking of tobacco, or products prepared from tobacco is  
11 immune from prosecution for that purchase, receipt, or possession  
12 while participating in either of the following:

13 (1) An enforcement activity that complies with the guidelines  
14 adopted pursuant to subdivisions (c) and (d) of Section 22952 of  
15 the Business and Professions Code.

16 (2) An activity conducted by the State Department of Public  
17 Health, a local health department, or a law enforcement agency  
18 for the purpose of determining or evaluating youth tobacco  
19 purchase rates.

20 (f) It is the Legislature’s intent to regulate the subject matter of  
21 this section. As a result, a city, county, or city and county shall not  
22 adopt any ordinance or regulation inconsistent with this section.

23 SEC. 24. No reimbursement is required by this act pursuant to  
24 Section 6 of Article XIII B of the California Constitution because  
25 the only costs that may be incurred by a local agency or school  
26 district will be incurred because this act creates a new crime or  
27 infraction, eliminates a crime or infraction, or changes the penalty  
28 for a crime or infraction, within the meaning of Section 17556 of  
29 the Government Code, or changes the definition of a crime within  
30 the meaning of Section 6 of Article XIII B of the California  
31 Constitution.